

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 677 of 2020**

Sundermani Namdev @ Raju S/o Dinesh Namdev, aged about 30 years, R/o In Front of High School, Bharat Mata Chowk Chandrapur, District : Janjgir-Champa, Chhattisgarh

---- Appellant**Versus**

State of Chhattisgarh through Police Station: Civil Line Bilaspur Presently at P.S. Ajak, District : Bilaspur, Chhattisgarh

---- Respondent

For Appellant	: Mr. Tarendra Kumar Jha, Advocate.
For Respondent/State	: Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel**Judgment On Board****09.11.2020**

1. This appeal has been preferred under Section 14(A)(ii) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 against impugned order dated 03.09.2020 passed by learned Additional Sessions Judge (FTC), Bilaspur (C.G.) in Bail Application No.1253/2020, whereby the Trial Court has rejected regular bail application of the appellant preferred under Section 439 of Cr.P.C. which relates to Crime Number: 858/2019, registered at Police Station: Civil Lines, Bilaspur, District: Bilaspur (C.G.) for the offence punishable under Section 376 of IPC and Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. In this case, the age of the prosecutrix is about 40 years, she is also having one son who is aged about 15 years. According to the

case of prosecution, a report has been lodged by the prosecutrix alleging therein that for last four years, she was undergoing treatment from Dr. Yash Namdev. The present Appellant is the brother-in-law of Dr. Yash Namdev. During that period, she met with the present Appellant thereafter, the Appellant continuously came to her house, allegedly, at that time, on false pretext of marriage he continuously committed sexual intercourse with the prosecutrix. Further, the Appellant also got prepared a notarized affidavit regarding their marriage and he assured that, after some days, marriage certificate would be obtained, thereafter both resided as husband and wife. Allegedly, after sometime the Appellant refused to marry the prosecutrix. On the basis of said, offence has been registered. During course of investigation, on 03.09.2020, the Appellant was arrested. Thereafter, the Appellant filed an application under Section 439 of Cr.P.C. before learned Additional Sessions Judge (F.T.C), Bilaspur (C.G.) and the said has been rejected by the learned Special Judge vide order dated 03.09.2020. Hence, this appeal.

3. Learned Counsel appearing on behalf of the appellant submits that the appellant is innocent and falsely implicated in the present case. He submits that if the entire case of the prosecution is taken as it is, it appears that prosecutrix was a consenting party, since, she is a married lady therefore, Prima Facie offence under Section 376 of IPC is not made out. Learned counsel further submits that, earlier also prosecutrix made a complaint against one Anand Prakash Mishra, who has been already acquitted by the learned Trial Court. According to the counsel, prosecutrix is habitual in lodging false complaint against various persons. He lastly submits that the Appellant is in jail since 03.09.2020, charge-sheet has already been filed and trial will

take some time, therefore, it is prayed that the Appellant may be released on bail.

4. Per contra, learned counsel appearing on behalf of the State opposes the appeal.
5. Prosecutrix has appeared through Video Conferencing through the Help Desk of this Court. She has opposed the appeal preferred by the Appellant.
6. I have heard learned Counsel for the parties and perused the material available in record.
7. Considering the facts and circumstances of the case, particularly considering the fact that prosecutrix is a major lady and further considering the fact that the Appellant is in jail since 03.09.2020, charge-sheet has already been filed and trial will take more time, without further commenting on other merits of the case, I am inclined to release the appellant on bail.
8. Accordingly, the appeal is allowed. The impugned order is set-aside.
9. It is directed that the appellant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/- with one local solvent surety for the like sum to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
Judge